IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

Crl.Rev.Pet.No. 540 of 1999(C)

CRA.205/1994 of I ADDL. SESSIONS COURT, TRIVANDRUM
CC.13/1990 of ADDL. CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM

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REVN. PETITIONER:

GOPINATHA PILLAI,
KAPPALLACHERIYATHU VEEDU,
KAVANADU,
KOLLAM.

BY ADV. SRI.B.KRISHNA MANI
SRI.V.PREMCHAND
SRI.K.SUBASH CHANDRA BOSE

RESPONDENTS:

THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI. C.M. KAMMAPPU, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 12/04/2007, ALONG WITH CRL.R.P. NO. 625/1998, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER CRL.M.P. NO. 2263/1999 IN CRL.R.P. NO. 540/1999

DISMISSED

12.04.2007 SD/- K.R. UDAYABHANU, JUDGE.

/True Copy/

P.A to Judge.

K.R. UDAYABHANU, J

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CRL. R.P. NO. 540 OF 1999 & 625 of 1998

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Dated this the 12th day of April 2007

O R D E R

The revision petitioner in Crl. R.P No. 625/1998 is the 2nd accused and the revision petitioner in Crl.R.P No. 540/1999 is the 1st accused in C.C. No. 13/90 and stand convicted and sentenced to undergo simple imprisonment for one year each and to pay a fine of Rs.10,000/- each and in default to undergo simple imprisonment for one year each. It is also directed that out of the fine amount if realised Rs.60,000/- is to be paid to PW2 as compensation under Section 357 (3) Cr.P.C. A3 was acquitted as per the order of the appellate court.

2. The prosecution case is that the accused in furtherance of their common intention cheated PW2 promising to secure an appointment for PW1 in the Coirfed office, Alleppey as a clerk and induced PW1 to part with an amount of Rs.30,500/- on 25.03.1986 to the 1st accused, at Coirfed Office, Thiruvananthapuram wherein the 2nd accused was working as a clerk.

3. The evidence adduced in the matter consisted of the testimony of PWs 1 to 8 and Exts. P1 to P5. Exts. D1 to D3 marked are the portions of Section 161 Cr.P.C statments of PWs 3 and 4 when the above witnesses were cross examined. The courts below have

concurrently found that the accused 1 and 2 are guilty of the offences alleged. The evidence in support of the prosecution version consisted of the testimony of PWs 1 to 6. The evidence was sought to be impeached on the ground that PWs 2,4 and 5 are friends of PW1 and some of the witnesses are close relatives. The courts below have rightly held that on the basis of friendship and relationship alone the evidence cannot be disbelieved.

4. On a consideration of the evidence adduced in the matter I find that no serious discrepancy in the version of the above witnesses so far as the guilt of A1 and A2 are concerned. In the circumstances, I find no reason to interfere in the concurrent findings of the courts below in exercise of the revisional jurisdiction of this Court.

5. The counsel for the revision petitioner has peladed for leniency pointing out that the incident has taken place in the year 1986 i.e., two decades ago and that so far the accused were facing the criminal proceedings. In the circumstances, I find that the sentence is liable to be modified. The sentence imposed on the accused is modified to imprisonment till the rising of the court and to pay a fine of Rs. 25,000/- each vide Section 357(3) Cr.P.C and in default to undergo simple imprisonment for six months each. The fine fine amount if

realised is to be paid to PW1, the defacto complainant. It is submitted that both of the revision petitioners have deposited Rs.10,000/- each to comply with the condition imposed for admitting the revision. The revision petitioners are granted three months time from today onwards to remit the fine amount less the amount deposited. The revision petitioners/accused shall appear before Additional Chief Judicial Magistrate, Thiruvananthapuram on 1**6.7.2007** to receive sentence.

The revision petitions are disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

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